



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,944	11/08/2000	Robert E. Dvorak	BLFR 1000-1	3032

22470 7590 01/26/2005

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

EXAMINER

JEANTY, ROMAIN

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/708,944

Applicant(s)

DVORAK, ROBERT E.

Examiner

Romain Jeanty

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16-23 and 25-115 is/are pending in the application.
- 4a) Of the above claim(s) 34-64 and 86-111 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-23, 25-33, 65-66, 69-81, 84, 85 and 112-115 is/are rejected.
- 7) ☒ Claim(s) 67, 68, 82 and 83 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Final Office action communication is in response to the amendment filed September 7, 2004. By the amendment, claims 1, 3-7, 10, 16-23, 25-31, 65-76, 80 have been amended. Claims 14-15, 24 have been canceled. Claims 112-115 have been added. Claims 1-13, 16-23, 25-33, 65-85, 112-115 are pending in the application.

Response to Amendment

2. Applicant's amendment to the claims, have overcome the 35 USC §101 rejection.

Response to Arguments

3. Applicant's arguments with respect to claims 1-13, 16-23, 25-33, 65-85, 112-115 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1-6, 10-11, 25, 65-66, 70, 72, 74, 76-79, and 112-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al (U.S. Patent No. 5,953,007) in view of Melchione et al (U.S. Patent No. 5,966,695).

Art Unit: 3623

As per claims 1-6, 10-11, 25, 65-66, 70, 72, 74, 76-79, 112-115, Huang et al disclose a decision support system comprising:

retrieving one or more reference selling profiles corresponding to daily or more frequent historical data for one or more reference products (col. 42, lines 5-10);

adjusting the historical data in the retail location-product specific selling profiles to correct for one or more promotions which impacted the historical data (col. 56, lines 3-8). Huang et al disclose all of the limitations above but Huang et al fail to explicitly disclose tracking promotion of the product at a locationaccessing a retail location promotion calendar that includes historical data that tracks promotion of the product at the location. Melchione et al in the same field of endeavor discloses the concept of accessing detailed sales transactions for each personal banker and view the sales results for the various campaigns, track the performance and make adjustments in the campaigns as necessary (col. 8, lines 38-60). It would have been obvious to a person of ordinary skill in the art to modify the disclosures of Huang et al to include the teachings of Melchione et al in order to maximize the profit of the financial institution

As per claims 25, Huang et al disclose a decision support system comprising:

retrieving one or more reference selling profiles corresponding to daily or more frequent historical data for one or more reference products (col. 42, lines 5-10);

wherein the historical data includes a stock on hand indicator for locations (col. 7, lines 26-30), adjusting the references selling profiles to correct for out of stock conditions at the locations (col. 56, lines 3-8).

As per claims 80-81, 84-85, Huang et al disclose a decision support method comprising accessing a plurality of projected daily or more frequent sales profiles, by location, and a

Art Unit: 3623

plurality of location distribution shares, for a particular product (col. 42, lines 5-10), and adjusting the location shares to reflect a weighted mix of the projected daily or more frequent sales and an actual daily or more frequent sales (col. 56, lines 3-8; col. 56, lines 4-8; col. 55, lines 23-33; col. 75, lines 49-60).

6. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al (U.S. Patent 5,953,707) in view of Melchione et al (U.S. Patent No. 5,966,695) and further in view of Bakalash (U.S. Patent No. 6,434,544).

As per claims 7, 8, and 9, Huang et al disclose all of the limitations above but fail to disclose wherein the adjusting to correct for seasonal selling effects step include ratioing the references selling profiles with a general profile comprising historical data for non-promotional products. Bakalash on the other hand, disclose a multidimensional ratio for ratioing the sales of products (col. 1 lines 48 through col. 2 line15). It would have been obvious to a person of ordinary skill in the art to modify the disclosure of Huang et al to incorporate the ratioing teaching of Bakalash with the motivation to project sales of the product.

7. Claims 11-12, 16-23, 26-33, 69, 71, 73, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al (U.S. Patent 5,953,707) in view of Melchione et al (U.S. Patent No. 5,966,695).

As per claims 11, 12, and 13, Huang et al and Melchione et al do not explicitly disclose wherein the special selling days include one or more days preceding Valentine Day, Mothers Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving or Christmas, and back to school days. It would have been obvious to a person of ordinary skill in the art to special days such as Valentine Day, Mothers Day, Memorial Day, the Fourth of July, Labor Day,

Art Unit: 3623

Thanksgiving or Christmas, and back to school days including any other special days into Huang et al with the motivation to forecast the sales of the product.

As per claims 16-23, 26-33, the combination of Huang et al and Melchione et al fails to explicitly disclose the recited features. However, Huang et al disclose the products are stocked at various locations (Col. 7, lines 26-31). As products are being sold, they have to restocked in order to maintain supply of the products. Thus it would have been obvious to a person of ordinary skill in art to include the recited features into Huang et al in order to increase sales.

As per claim 69, 71, 73, 75, Huang et al do not disclose applicant's claimed features. However, incorporating these features into Huang et al would have been obvious to a person of ordinary skill in the art in order to increase sales.

Allowable Subject Matter

8. Claims 67, 68, 82, and 83 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

As per claim 67, and 68, prior art of record fails to teach or suggest wherein the particular product has a time period of sales, further including truncating the reference selling profiles to a matching time period the same length as the time period for sales including scaling historical data for the truncated reference selling profiles so that the sales profile projections sum to 1.0.

Art Unit: 3623

As per claims 82, and 83, prior art of record fails to teach wherein the weighted mix is calculated using $\text{weight} = [(\text{actual sales}/\text{projected sales}) * (1 - \text{factor})] + (\text{factor})$ wherein the factor selected is between 0.0 and 1.0.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. TSI (Strategiy Strategy Incorporated) optimizing timing and markdowns to maximize gross profit.

b. Landvater (U.S. Patent No. 6,609,101) discloses a method for calculating forecasts and replenishment of products for a retail location.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3623

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached Monday-Thursday from 7:30 am to 6:00 pm. If attempts to reach the examiner are not successful, the examiner's supervisor, Tariq R Hafiz can be reached at (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-1113.

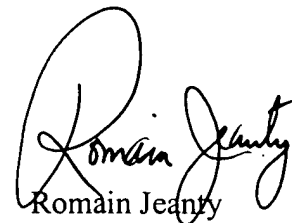
Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450 or faxed to: (703) 305-7687

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington VA, Seventh floor receptionist.



Romain Jeanty

Primary Examiner

Art Unit 3623

December 13, 2004